

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

W.P.No.24376 of 2006

Dated:17.07.2007

Between

B.V.Sateesh

.....Petitioner

and

1. The Secretary to Govt. Finance
& Planning (FR.II)Dept.,
Secretariat, AP Hyderabad and others.

...Respondents

THE HON'BLE SMT JUSTICE T.MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

W.P.No.24376 of 2006

ORDER: (*per the Hon'ble Smt Justice T.Meena Kumari*)

This writ petition has been filed seeking a Certiorari to call for the records pertaining to the Order passed in O.A.No.1615 of 2005 dated 31.10.2006 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad and quash the same along with the proceedings in Rc.No.A1/2559/94 dated 21.1.1998, Proceedings in R.C.No.A1/760/94, dated 22.03.1999, and Proceedings in RC No.K6/1876/2000 dated 17.6.2003 dismissing

the petitioner from service and rejecting the appeal and revision filed by the petitioner along with Memo No. A1/2559/94, dated 31.12.2004 and Proceedings No.K (I)17459/2003, dated 26.5.2005 and consequently to direct the respondents to reinstate the petitioner into service with all consequential benefits.

The facts of the case may briefly be recited thus:

Initially, the petitioner was appointed as Attender on 2.8.1988. Subsequently, he was transferred to Sub-Treasury Office, Cumbum during July, 1991. While so, on 11.3.1994, 4th respondent-District Treasury Officer, Ongole Prakasam District, asked the petitioner to draw the bills from the State Bank of India, Cumbum. Afterwards, he was asked

to go to District Treasury Office, Ongole, along with daily sheet day books. Accordingly, the petitioner proceeded there. After that, the 4th respondent complained to 1st respondent stating that the petitioner has forged his signatures and withdrawn amounts of Rs.2000/-, Rs.1000/- and Rs.15000/- on different accounts by way of demand drafts. Fourth respondent also lodged a complaint with the police and the same was registered as Crime No.12 of 1994. Basing on the said complaint, the petitioner was placed under suspension by 3rd respondent. In the said proceedings, it was also stated that the petitioner has confessed that he has committed the said forgery, for which, he submitted an explanation to the 3rd respondent dated 9.6.1994 stating that he was forced to give such statement. But, the 3rd respondent,

without considering the same, issued charge memo dated 10.12.1994 to the petitioner alleging that he has misappropriated an amount of Rs.18,000/- by forging the signatures of Sub-Treasury Officer, Cumbum, for which he submitted his explanation dated 18.3.1995. Having not satisfied with the explanation submitted by the petitioner, an enquiry was conducted, and the Enquiry Officer, who conducted the enquiry, submitted his report dated 20.03.1997 stating that the charges levelled against the petitioner are proved. Based on the said enquiry report, a show cause notice was issued to the petitioner calling upon him to show cause as to why he should not be dismissed from service, for which the petitioner submitted his explanation on 8.12.1997. However, 3rd Respondent, vide proceedings dated 21.1.1998 dismissed the petitioner from service. Aggrieved by the

same, the petitioner filed appeal and revision before 2nd respondent and 1st respondent, which were rejected, by orders dated 22.03.1999 and 17.06.2003 respectively. Questioning the same, the petitioner filed O.A. No. 5954 of 2003. During the pendency of said O.A., the petitioner was acquitted by the Judicial First Class Magistrate, Giddalur, vide Judgment dated 20th August, 2004 passed in C.C.No.303 of 1996 and C.C.No.304 of 1996. After that, the OA was also disposed of with a direction to the petitioner to make a representation to the respondent authority for his reinstatement and consequential benefits within a period of one week from the date of receipt of copy of the order and on receipt of such representation, the respondents were directed to examine his case and pass appropriate orders in

accordance with rules, within a period of one month. In pursuance of the same, the petitioner submitted a representation dated 1.12.2004 requesting the respondents for his reinstatement. Thereupon, 3rd respondent issued a Memo dated 31.12.2004 rejecting his representation. Challenging the same, he again filed O.A. No.1615 of 2005, and the same was dismissed by order dated 31.10.2006. Questioning the same, the present writ petition is filed.

Learned counsel for the petitioner submits when once the competent criminal Court acquitted the petitioner, the order of dismissal on the same set of charges cannot be permitted to sustain and the respondents ought to have reinstated the petitioner into service in pursuance of the acquittal order passed in his favour by the competent criminal Court. Therefore, the Memo dated 31-12-

2004, which was erroneously upheld by the Tribunal in O.A.No.1615 of 2005 is liable to be set aside.

Per contra, learned Standing Counsel for the respondents contends that even if the petitioner has been acquitted, it does not prohibit the competent authority to take departmental action against him and that the departmental proceedings were concluded before the petitioner was acquitted in the criminal case.

Heard the learned counsel appearing on either side.

On a close scrutiny of the material, it brooks that there is no dispute as to filing of criminal cases against the petitioner on the premise that he had misappropriated certain amounts and acquitting of the charges by the criminal Court. Prior to that, departmental proceedings were initiated against him and an

enquiry was conducted. Basing on the said enquiry report, he was dismissed from service. Questioning the same, he filed appeal, further revision and the same ended in dismissal. Challenging the same, he filed OA and it met with the same fate. The contention of the petitioner is that when once he has been acquitted by the competent criminal Court of the same set of charges, the order of dismissal passed by the authorities is liable to be set aside and he has to be reinstated into service. We are afraid, we cannot accept the said contention inasmuch as even if the petitioner has been acquitted by the criminal Court, it does not prohibit the competent authority to take departmental action against him. It is pertinent to mention that the departmental proceedings were concluded much before the judgment of the criminal court. That apart, the charges in the

departmental proceedings are not exactly the same as in the criminal case. Further, the petitioner was given fair and reasonable opportunity during the course of departmental proceedings and no statutory rules have been violated by the authorities. In the circumstances, the findings arrived at by the Tribunal confirming the Orders passed by the authorities cannot be found fault and they need no interference by this Court under Article 226 of the Constitution of India.

The Writ petition fails and is accordingly dismissed. No costs.

(T.MEENA KUMARI,J)

(G.CHANDRAIAH,J)

17.07.2007

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